REMARKS

Claims 1-15 and 31-44 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Section 102(b) Rejection:

The Examiner rejected claims 1-4, 7, 12, 31, 35 and 38 under 35 U.S.C. § 102(b) as being disclosed by Cunniff (U.S. Patent 5,945,992). Applicants respectfully traverse this rejection for at least the reasons below.

Regarding claim 1, Cunniff fails to disclose <u>using the first and second data values</u> for each object <u>to assign</u> each object <u>a first non-positional rendering attribute and a second non-positional rendering attribute</u>. The Examiner considers the X and Y values of an object's position in Cunniff's system to be first and second data values and further contends that an object's bounding geometry and its opaque radius correspond to first and second non-positional rendering attributes. However, Cunniff does not disclose using the X and Y values of an object's position to assign the object's bounding geometry or its opaque radius. In fact, Cunniff makes no mention of assigning an object's bounding geometry or its opaque radius at all. Cunniff merely states that an object's bounding geometry and its opaque radius, as well as its position, are stored in same data structure and are used to cull objects that do not need to be rendered without making any statement whatsoever regarding how an object's bounding geometry and opaque radius are determined.

In the Response to Arguments, the Examiner argues that there is an implied relationship of association in Cunniff's system between the position of each object and its bounding geometry and its opaque radius. Specifically the Examiner argues that Cunniff's teaching regarding storing an object's position, bounding geometry and opaque radius in a single data structure implies that Cunniff *assigns* the object's bounding geometry and opaque radius *using* the object's position. However, whatever association

or relationship may exist between an object's position and its bounding geometry and its opaque radius (such as the association implied by storing them together as the Examiner contends) **is completely irrelevant to the fact that Cunniff does not disclose assigning an object's bounding geometry and its opaque radius using the object's position, which would be required under the Examiner's interpretation for Cunniff to be considered to anticipate Applicant's claim 1.** Thus, even considering the Examiner's interpretation of Cunniff, Cunniff clearly fails to disclose using the first and second data values for each object to assign each object a first non-positional rendering attribute and a second non-positional rendering attribute.

Additionally, the bounding geometry in Cunniff is not a non-positional *rendering attribute* **(let alone first and second non-positional rendering attributes).** Cunniff teaches that the bounding geometry is used by the server to prune unnecessary objects before sending data to the client. Thus, an object's "bounding geometry" in Cunniff is used for object pruning and is not a rendering attribute. The only example of a bounding geometry described in Cunniff is a bounding sphere (see data structure at top of col. 4 and lines 21-26 of col. 4). The bounding sphere is defined by a <u>single</u> "Radius" attribute. Cunniff teaches that the bounding sphere information is used to perform "View Cone Elimination" (see col. 5, line 60 through col. 6, line 57; Figs. 6-8). As described in Cunniff, View Cone Elimination is used to prune unnecessary object data before sending data to the client. Thus, the bounding geometry (sphere) in Cunniff is only used for the pruning process at the server. The bounding geometry discussed in Cunniff is not used to render the object at the client. Thus, contrary to the Examiner's assertion, the bounding geometry described in Cunniff is not a <u>rendering attribute</u>, and is certainly not a first non-positional rendering attribute or a second non-positional rendering attribute. Likewise, the "opaque radius" in Cunniff is used for object pruning to perform the "Obscured Object Rejection test" (see col. 6, line 62 through col. 7, line 65, and Fig. 9). An object's "bounding geometry" and "opaque radius" are only used in Cunniff for object pruning. As stated in the same section of Cunniff cited by the Examiner, the entire purpose of object pruning is to eliminate objects from the rendering process. The "bounding geometry" and "opaque radius" in Cunniff have absolutely nothing to do with how a

given object is actually rendered by the client. Thus, by definition, they cannot be considered rendering attributes.

Cunniff also fails to disclose using the first and second non-positional rendering attributes to select a third non-positional rendering attribute. The Examiner contends that Cunniff discloses selecting an object's opaqueness using the object's bounding geometry and opaque radius. The Examiner is incorrect. Nowhere does Cunniff mention anything regarding *selecting* opaqueness *using bounding geometry and opaque radius.* The Examiner has not cited any specific portion of Cunniff that discloses such functionality.

Additionally, even using the Examiner's reasoning, an object's opaqueness would not be selected in Cunniff's system using the object's bounding geometry and the object's opaque radius. Instead, in Cunniff's system the object's opaque radius would determine the object's opaqueness. The object's bounding geometry would only used to determine whether the object was obscured by another object (see, Cunniff, column 6, line 53 – column 7, line 34). Thus, even using the Examiner's reasoning, which Applicant's maintain in incorrect, Cunniff would fail to disclose selecting an object's opaqueness using the object's bounding geometry and its opaque radius.

In the Response to Arguments, the Examiner contends that Cunniff's culling of objects "inevitably, also provides for rendering those portions of objects that are outside [sic - Applicant assumes Examiner meant inside] the view cone of the observer and not obscured by objects in front of them, which corresponds to a rendering attribute for each of those objects." Thus, the Examiner is now arguing that whether or not an object is culled, and therefore whether or not an object is rendered in Cunniff's system, somehow corresponds to a non-positional rendering attribute. The fact that an object is rendered cannot be considered a rendering attribute of that object. Additionally, Cunniff makes no mention of using the fact that an object is rendered as a non-positional rendering attribute.

Thus, whether using the explicit teachings of Cunniff or using the Examiner's flawed reasoning, Cunniff clearly fails to disclose using the first and second non-positional rendering attributes to select a third non-positional rendering attribute.

In the Response to Argument, the Examiner also states that Applicant has argued that Cunniff fails to describe any relationship between an object's position and its bounding geometry and further states that Applicant's claims do not recite anything regarding a relationship between an object's position and its bounding geometry. The Examiner has misunderstood Applicant's argument. Applicant was not arguing that Applicant's claim included any such limitation. Applicant was specifically rebutting the Examiner argument that the bounding geometry (i.e. size and shape) of Cunniff's objects could be considered a first and second non-positional rendering attributes assigned using the object's X and Y position values, which the Examiner considers the first and second data value for the object. Thus, Applicant argued that Cunniff fails to teach using an objects position (i.e. its X and Y values) to assign the object's bounding geometry (i.e. size and shape). Applicants statement regarding Cunniff failing to teach any relationship between an objects position (X and Y values) and its bounding geometry (size and shape) illustrates that the Examiner's interpretation of Cunniff is incorrect. Cunniff does not disclose using an object's position to assign its bounding geometry. Thus, Cunniff fails to disclose using a first and second data values for each object to assign each object a first non-positional rendering attribute and a second non-positional rendering attribute.

Thus, for at least the reasons presented above, the rejection of claim 1 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks apply to claim 31 as well.

In regard to claim 3, Cunniff fails to disclose wherein the second non-positional rendering attribute is opacity. Instead, Cunniff describes an object's opaque radius, not its opacity. Cunniff defines an object's opaque radius as a radius that obscures all objects that are behind the object (Cunniff, column 4, lines 21-26). Additionally, an object's opaque radius is not used, along with another non-positional rendering attribute, to select

a third non-positional rendering attribute in Cunniff's system. Instead, Cunniff teaches that an object's opaque radius is used to cull other objects that are obscured by the first object based upon the first object's opaque radius. Cunniff clearly does not use an object's opacity as a non-positional rendering attribute to select a third non-positional rendering attribute. Cunniff uses the opaque radius not as a rendering attribute, but for culling one object based upon another object's opaque radius before the data for rendering is even sent to the client.

Additionally, in the rejection of claim 3, the Examiner states that "when shape, size or opaqueness is arbitrarily associated with the second non-positional rendering attribute, then its counter part, opaqueness, shape or size, is associated with the third non-positional rendering attribute." However, this statement by the Examiner is incorrect. Claim 1, from which claim 3 depends (via claim 2), requires using the first and second non-positional rendering attributes to select a third non-positional rendering attribute. Cunniff does not use an object's opaqueness to select either the object's size or shape.

Thus, the rejection of claim 3 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claim 35.

Regarding claim 7, Cunniff does not disclose wherein the first non-positional rendering attribute is font size. The Examiner argues that by disclosing a graphic object's total size Cunniff is also disclosing font size. Applicants respectfully disagree. Nowhere does Cunniff mention font size. Nowhere does Cunniff mention that graphic objects may be fonts. A graphic object's size is not the same as font size.

Additionally, claim 1, from which claim 7 depends, requires using the first and second non-positional rendering attributes to select a third non-positional rendering attribute. Since Cunniff makes no mention of font size, Cunniff clearly fails to disclose using font size to select a non-positional rendering attribute. Furthermore, in the rejection of claim 1, from which claim 7 depends, the Examiner asserts that an object's

opaqueness corresponds to the third non-positional rendering attribute of claim 1. However, Cunniff does not disclose using font size to select the opaqueness of an object.

Without some specific teaching regarding font and font sizes, Cunniff cannot be said to anticipate claim 7. Thus, the rejection of claim 7 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to claim 38.

Section 103(a) Rejections:

The Examiner also rejected claims 5, 13, 14, 15, 34, 43 and 44 under 35 U.S.C. § 103(a) as being unpatentable over Cunniff as applied to claim 1 above, and further in view of Robbins (U.S. Patent 6,819,344), claims 6, 8, 37 and 39 as being unpatentable over Cunniff as applied to claim 1 above, and further in view of van Dantzich et al. (U.S. Publication 2002/0054117) (hereinafter "Dantzich"), claims 9 and 40 as being unpatentable over Cunniff as applied to claim 1 above, and further in view of Sheasby et al. (U.S. Publication 2002/0008704) (hereinafter "Sheasby"), claims 10 and 41 as being unpatentable over Cunniff as applied to claim 1 above, and further in view of Pettigrew et al. (U.S. Patent 6,429,875) (hereinafter "Pettigrew"), claims 11 and 42 as being unpatentable over Cunniff as applied to claim 1 above, and further in view of Official Notice, claim 32 as being unpatentable over Cunniff as applied to claim 1 above, and further in view of Crotty et al. (U.S. Publication 2002/0050995) (hereinafter "Crotty"), claim 33 as being unpatentable over Cunniff as applied to claim 1 above, and further in view of Buchner et al. (U.S. Patent 5,471,572) (hereinafter "Buchner"), claim 36 as being unpatentable over Cunniff as applied to claim 1 above, and further in view of Berend et al. (U.S. Patent 5,598,182) (hereinafter "Berend"), and claims 4, 7 and 38 under 35 U.S.C. § 102(b), as discussed above, and, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Cunniff as applied to claim 1 above, and further in view of Official Notice. Applicant respectfully traverses the rejection of these claims for at least the reasons presented above regarding their respective independent claims.

Further regarding claims 11 and 42, the Examiner takes Office Notice that "the art is replete with 'non-positional rendering attribute is shimmer level'". Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner's taking of Official Notice. The use of a shimmer level may be been known *in other contexts*, but Applicant asserts that it was not well known in the prior art to use the first and second data values for each object to assign each object a first non-positional rendering attribute and a second non-positional rendering attribute, where the first non-positional rendering attribute is shimmer level. In fact, as admitted by the Examiner, Cunniff does not teach anything regarding shimmer level. The prior art does not suggest the *specific combination* of features recited in claims 11 and 42. Moreover, there is no evidence of record suggesting and motivating any such modifications to the teachings of Cunniff. Pursuant to M.P.E.P. § 2144.03 Applicant asserts that "the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001).

Thus, the rejection of claim 11 and 42 is not supported by the cited art and removal thereof is respectfully requested.

Additionally regarding claim 4, the Examiner takes Official Notice that "the art is replete with using first and second non-positional rendering attributes to select a third non-positional rendering attribute level of detail." Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner's taking of Official Notice. While it may have been well-known to use level of detail in other contexts, applicant asserts that it was not well known in the prior art to use first and second non-positional rendering attributes to select a third non-positional rendering, where the third non-positional rendering attribute is level of detail. In fact, as admitted by the Examiner, Cunniff does not teach anything regarding selecting level of detail as a third non-positional rendering attribute. Pursuant to M.P.E.P. § 2144.03, Applicant asserts that "the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001). There is no evidence of record to support the rejection of claim 4.

Thus, the rejection of claim 4 is not supported by the cited art and removal thereof is respectfully requested.

In further regard to claims 7 and 38, the Examiner takes Office Notice that "the art is replete with non-positional rendering attribute of font size." Pursuant to M.P.E.P. § 2144.03, Applicant traverses the Examiner's taking of Official Notice. While the use of font size may have been well known in other contexts, applicants assert that is was not well known in the prior art to use the first and second data values for each object to assign each object a first non-positional rendering attribute and a second non-positional rendering attribute, where the first non-positional rendering attribute is font size. In fact, as admitted by the Examiner, Cunnif does not teach anything regarding selecting font size as a first non-positional rendering attribute using a first and second data values. Pursuant to M.P.E.P. § 2144.03, Applicant asserts that "the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained." See also 37 CFR 1.104(c)(2), (d)(2) and *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001). There is no evidence of record to support the rejection of claims 7 and 38.

Furthermore, as described above regarding the § 102 rejection of claim 7, claim 1, from which claim 7 depends, requires using the first and second non-positional rendering attributes to select a third non-positional rendering attribute. Since Cunniff makes no mention of font size, Cunniff clearly fails to disclose using font size to select a non-positional rendering attribute. Furthermore, in the rejection of claim 1, from which claim 7 depends, the Examiner asserts that an object's opaqueness corresponds to the third non-positional rendering attribute of claim 1. However, Cunniff does not disclose using font size to select the opaqueness of an object. Thus, font size cannot in any way be considered the first (or second) non-positional rendering attribute of applicant's claims.

Thus, the rejection of claims 7 and 38 is not supported by the prior art and removal thereof is respectfully requested.

Additionally, the Examiner's rejection of claims 5-11, 32, 33, 34, 37, 39, 40, 42 and 43 is improper. For example, in the rejection of claim 5, the Examiner contends that Robbin's use of animation corresponds to a first and second non-positional rendering attributes. However, as noted above regarding claim 3 and 7, since claim 1 requires selecting a third non-positional rendering attribute using the first and second non-positional rendering attributes, Cunniff would have to select a third non-positional rendering attribute for an object using the animation of the object. Such is clearly not the case in Cunniff, so the Examiner's rejection of claim 5 is improper. Thus, Cunniff in view of Robbins fails to teach or suggest wherein the first and second non-positional rendering attributes are each, one of the following: color saturation, drop shadow, animation. The rejection of claim 5 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks apply to claims 6-11, 32, 33, 34, 37, 39, 40, 42 and 43 where the Examiner considers various attributes, such as font size, sound volume, blink rate, background blending level, and shimmer level as the first (or second) non-positional rendering attribute. Thus, the rejection of claims 5-11, 32, 33, 34, 37, 39, 40, 42 and 43 is not supported by the cited art and removal thereof is respectfully requested.

Regarding both the § 102 and § 103 rejections, Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.
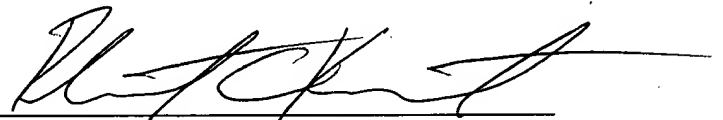
CONCLUSION

Applicant submits the application is in condition for allowance, and prompt notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-80300/RCK.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

☐ Petition for Extension of Time

☐ Notice of Change of Address

☐ Other:

Respectfully submitted,

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Date: February 2, 2006